

THE TOWN OF FOREST HEIGHTS
RESOLUTION 45 – 21 (*Revised*)

A RESOLUTION TO APPROVE PHASE I (*REVISED*) OF A PROPOSAL AND CONTRACT FROM FES GROUP, LLC TO PROVIDE STEEP SLOPE STABILIZATION AND REPAIRS, AND MAKE ROADWAY IMPROVEMENTS ALONG OR NEAR CREE DRIVE

Introduced by: Acting Mayor Calvin Washington

WHEREAS, since the September 15th Town Council meeting, staff has determined that the proposed cost of the project as provided in this Resolution, as originally written, is more than can be reasonably allocated for the project in the FY22 Budget, and as a result, staff and the vendor have revisited the original scope of work to determine if there is an optimal phased-in approach to be considered which could move the project forward, accomplish the goals to rehabilitate the street, but also better align with the Town's fiscal resources to adequately fund the project at this time; and

WHEREAS, the Charter, Section 33-73 (Public ways, control) states that the Town of Forest Heights (the "Town") shall have control of all public ways in the Town except such as may be under the jurisdiction of the State Roads Commission of Maryland or Prince George's County and that subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, the Charter, Section 33-66(g) (Purchases and contracts) states that the Mayor and Council by a two-thirds vote may waive the competitive bidding requirements of said section for good cause shown for sole source procurements of unique products and services provided written findings are made as to the basis of such waiver shall be placed in the journal of the Council's proceedings; and

WHEREAS, a Drainage Assessment and Inspection Report prepared by Pennoni and Associates dated January 2011 (the "Report") provides information on the Town's storm drainage infrastructure, and Appendix F (Tab F) of the Report is a town-wide Drainage Inlet Map with colorized phases (phase 1-14) recommending in phases repair of the systems; and

WHEREAS, the Town wishes to install certain improvements to protect certain vulnerable areas of steep slopes situated near Cree Drive that are causing erosion into the roadway; and

WHEREAS, the Town has recently received its first-year installation of American Rescue Plan Act funding in the amount of \$1,263,102.67 which was distributed by the State of Maryland to the Town as a Non-Entitlement Entity recipient, and one of the eligible categories for use of these funds is to support municipal infrastructure projects; and

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***WHEREAS**, the Council finds that in addition to \$1,263,102.67 from the American Rescue Plan Act already partially distributed to the Town, other potential funding sources for the Project in FY22 include: (i) Highway User Funds - \$101,000.00, (ii) Casino Impact Funds (Casino) - \$120,000.00, (iii) State Infrastructure Grant - \$125,000.00, and (iv) State Infrastructure Bond (balance) \$311,000.00; and*

***WHEREAS**, the Town obtained from FES Group, LLC (“FES”) a Fee Proposal for the Engineering, Design, and Construction of Slope Erosion Repair and Stabilization of Cree Drive Drainage Improvements and Road Repair (FES Project No. 21-016) dated August 2, 2021, which was amended on October 4, 2021; and*

***WHEREAS**, said Proposal (Phase I - revised) is for ~~[drainage improvements, repair and stabilization of steep failing earth slope and drainage ditch]~~ construction of concrete aprons, drainage improvements, and curb and gutter at Cree Drive Drainage Improvements in Forest Heights at a project cost ~~[of \$1,711,700.00]~~ not to exceed \$752,400.00, which is attached hereto as Exhibit 1; and*

***WHEREAS**, at a meeting on September 22, 2021, the Town staff and FES were able to agree upon a revised scope of work, and this revised scope of work or new sub-scope would include the following: Plan drawings and submittals, underdrain installation and removal and replacement of curbs, gutters and driveway aprons; and*

***WHEREAS**, said Proposal originally recommended that the project be performed in two (2) phases to minimize the impact on the existing residences and movement of traffic along Cree Drive consisting of steep slope stabilization repair and roadway improvements for Phase I per Section 6 of the Proposal; and*

***WHEREAS**, at the Town special meeting held on September 30, 2021, Acting Mayor Washington presented a revised plan as described herein and concluded by urging the Council to consider moving forward with the project based on a “modified first phase” where such approach is scaled down further in the scope of work as was indicated in this Resolution (tableted); and*

***WHEREAS**, the proposed revised scope of work (printed below) decreases the cost of Phase I of the project from \$1,711,700.00 to \$752,400.00; however, because of the relatively high proposed costs from FES for the milling and repaving of the length of Cree Drive (note that the remaining aspect of this revised Phase I that was removed would be to mill and repave the length of Cree Drive with new asphalt), staff recommends the Town consider entering into a contract with another vendor to take on the job of milling and repaving, since proposals for this service from another vendor has historically come in significantly lower than the FES proposal referenced above, and*

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PHASE I FEES

Phase 1A- Surveying and Grading Plan...	(\$195,700.00).
Phase 1C- Underdrain System Install and Inlets...	(\$178,900.00).
Phase 1C.1 - Concreate Aprons (69 each)...	(\$125,500.00).
Phase 1D – Removal and Replacement of Curb and Gutters	<u>(\$252,300.00).</u>
TOTAL: \$752,400.00	

Note: The plan would include, as recommended by staff, an additional finishing aspect of the project which would be the milling and repaving of the entire street by another firm, and staff estimates this aspect will cost approximately an additional \$275,000.00, to be approved in a separate Resolution; and

WHEREAS, the Council finds that FES Group, LLC's services are unique and the best bid in terms of the quality of goods and work, successful past performance on Town projects in March of 2021, time of delivery or completion, and responsibility of bidders being considered, and the fact that [this] *the original* bid was put out on two (2) occasions and FES was the only respondent both times, and FES will adequately address the particular needs of the Town in supplying this public works project in an incremental yet cost effective manner.

NOW THEREFORE BE IT RESOLVED that the Town Council hereby accepts the aforementioned Proposal (Phase I – *Revised, dated Oct. 4, 2021*) and approves and authorizes a *Fee Proposal/Contract* (FES Project No. FES21-015-*Revised*) in the amount [~~of \$1,714,700.00~~] *not to exceed \$752,400.00* with certain terms and conditions enumerated therein, for the [~~design, construction and stabilization of a slope failure and pipe installation~~] construction of concrete aprons, drainage improvements, and curbs and gutters *at Cree Dr.* prepared by FES Group, LLC, a Maryland company that is in good standing with the State, which [~~both documents are~~] is attached hereto and incorporated by reference herein as Exhibit 1 [~~and Exhibit 2~~].

AND, BE IT FURTHER RESOLVED that the Town Council hereby authorizes the finalized written contract with FES Group, LLC to be paid pursuant to FY22 Budget Line Item(s): 8000 (*Street Repair Projects*), 8016 (*Storm Drain Repair*, 8200 (*ARPA*) with any proofs of insurance and indemnifications deemed necessary by the Town Administrator to protect the Town and carry out the performance of the project described herein.

AND, BE IT FURTHER RESOLVED, *that prior to the Acting Mayor or Mayor signing the approved proposal or contract the authorized representative of said company or firm shall provide proof of insurance indemnifying the Town, to the satisfaction of the Town Administrator, and that the Contractor shall agree by signing a release and waiver that it will provide and maintain at all times during the term of this agreement, or any other contract it has with the Town, such insurance coverage (Commercial General Liability, Business Automobile Liability, and Workers' Compensation) to adequately protect the Town or as otherwise required by law*

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and that the Contractor shall cover any claim that may arise while engaged in work under any agreement with the Town.

AND, BE IT FURTHER RESOLVED that the Town Council by a two-thirds vote hereby waives the competitive bidding requirements of Section 33-66 of the Town Charter for good cause shown for sole source procurements of unique products and services.

AND BE IT FURTHER RESOLVED that the Acting Mayor, on behalf of the Town is hereby authorized to enter into the *Proposal/Contract* and execute any [~~Contract Documents as enumerated in Article 9 of the referenced Contract, attached as Exhibit 2~~], and any other necessary documents needed to carry out the intent of this Resolution prior to the commencement of any work; and

AND BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its passage.

PASSED this 20 day of [~~September~~] *October* 2021.

APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland.

ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

VACANT

BROWNSON

ATKINSON

BARNES

HINES

WASHINGTON

NOBLE

NAY
Yea
Yea
Yea
Yea
Yea
Yea

ATTEST:

THE TOWN OF FOREST HEIGHTS,
MARYLAND

SIGNATURE ON FILE

Sherletta Hawkins, Town Clerk

SIGNATURE ON FILE

By: Calvin Washington, Acting Mayor

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CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 20 of [~~September~~] *October* 2021 with 5 Aye votes and 1 Nay vote (i.e., a 2/3rds majority of quorum) the aforesaid Resolution 45-21 passed.

SIGNATURE ON FILE

Sherletta Hawkins, Town Clerk

[Exhibits 1 & 2 FES Proposal/Contract (dated Oct. 4, 2021)]

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